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Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

- 1. a. Whether there should be additional reimbursement for date of service (DOS) 03/16/01?
 - b. The request was received on 02/25/02.

II. EXHIBITS

- 1. Requestor, Exhibit I:
 - a. TWCC-60 and HCFA-1450s (Initial Request)
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
- 2. Per Commission Rule 133.307(g)(3), the Commission requested additional documentation from the requestor on 07/12/02. The requestor did not respond and no documentation was available to forward to the insurance carrier's Austin representative as described in Commission Rule 133.307(g)(4). Therefore, the Commission shall issue a decision based only on the initial request.
- 3. Print screen showing Commission's fee letter, dated 07/12/02, is reflected as Exhibit III of the Commission's case file.

III. FINDINGS

- 1. Based on Commission Rule 133.307(d)(1&2), the only date of service (DOS) eligible for review is 03/16/01.
- 2. The provider, an ambulatory surgery center, billed a total of \$4,645.00 on the DOS in dispute.
- 3. The carrier reimbursed \$913.23. The issue is fair and reasonable reimbursement.
- 4. The total amount in dispute per the TWCC-60 is \$3,601.77.

IV. RATIONALE

Commission Rule 134.401(a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011(b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective

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medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Commission Rule 133.304(i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier did not responded to the dispute. However, regardless of the carrier's lack of response under the Act, there must be specific statutory authorization to create liability through waiver. The burden is on the provider to show that the amount of reimbursement requested is fair and reasonable and conforms to the criteria identified in Sec. 413.011(b) of the Texas Labor Code.

The provider has not supplied the documentation required by Commission Rule 133.307(g)(3)(A-F). Therefore, the provider has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this <u>27th</u> day of <u>August</u> 2002.

Larry Beckham Medical Dispute Resolution Officer Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.